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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,562	01/23/2004	Gil M. Vardi	15305.0014USD2	3207
23552 7590 07/01/2008 MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903				
EXAMINER				
SWEET, THOMAS				
ART UNIT		PAPER NUMBER		
3774				
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07/01/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/762,562

Applicant(s)

VARDI ET AL.

Examiner

Thomas J. Sweet

Art Unit

3774

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-85/86)
Paper No(s)/Mail Date 11/07/2007.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 9 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al (US 6165195) in view of Fischell et al (US 5749825). Wilson et al discloses a method of positioning a main stent in a main vessel at a vessel bifurcation such that a side opening in the main stent is positioned at t-he-an ostium of a branch vessel, the method comprising:

positioning a main guidewire in the main vessel such that a distal end of the main guidewire extends past the vessel bifurcation (fig. 13A);

advancing a stent delivery system over the main guidewire to a position proximate the bifurcation (fig. 13A), the stent delivery system comprising a catheter with a flexible side sheath (55B) attached thereto, wherein the catheter (50) is received over the main guidewire, and wherein the main stent (20) is positioned over the catheter (50) with the flexible side sheath (55B) positioned to pass through the an interior of the main stent and out of the side opening in the main stent (as see in fig. 13D),

subsequently, advancing a branch guidewire (56B) through the flexible side sheath attached to the catheter and into the branch vessel (fig. 13 B);

subsequently, advancing the catheter over the main guidewire while advancing the flexible side sheath over the branch guidewire (fig. 13C), while-viewing relative movement of a marker positioned on the of the flexible side sheath (the stent and wire are radiopaque, and as described col 17-18 lines 64-14) with respect to at least one marker positioned on the catheter (the stent) when advancing the flexible side sheath over the branch guidewire, wherein the relative movement indicates that the distal end portion of the flexible side sheath is advancing into the ostium of the branch vessel, thereby indicating the a relative position of the side opening of the main stent with respect to the ostium of the branch vessel.

However, Wilson et al does not disclose the flexible side sheath having a distal end portion extending distal of the side opening of the stent; and that wherein the distal end portion of the flexible side sheath advances into the branch vessel; and while-viewing relative movement of a marker positioned on the distal end portion of the flexible side sheath with respect to at least one marker positioned on the catheter when advancing the flexible side sheath over the branch guidewire.

Fischell et al discloses another method of positioning a main stent in a bifurcation including the flexible side (24) sheath having a distal end portion extending distal of the side opening of the stent (as shown in fig 1) for the purpose of helping assure proper longitudinal placement (abs). Thought Wilson et al does not specifically disclose a marker positioned on the distal end portion of the flexible side sheath. The teachings of Wilson et al (col 17-18 lines 64-14) to place markers on components for the purpose of assisting in proper alignment would lead

one of ordinary skill in the art to add a distal end marker to the sheath in order to assist in proper alignment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the flexible side of Wilson et al to extend the sheath to have a distal end portion extending distal of the side opening of the stent as taught by Fischell et al in order to help assure proper longitudinal placement and to include a distal end marker on the modified flexible sheath to further assist in proper alignment. These modifications would utilize the steps as claimed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Sweet whose telephone number is 571-272-4761. The examiner can normally be reached on 6:45am - 5:15pm, Tu-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Isabella can be reached on 571-272-4749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas J Sweet/
Primary Examiner, Art Unit 3774